



LOUISIANA PATIENT'S COMPENSATION FUND

STRATEGIC PLAN

FY 2020 - 21 through FY 2024-25

VISION

VISION

The vision of the Patient's Compensation Fund (PCF) is:

- to protect and maintain the integrity of the Medical Malpractice Act (R.S. 40:1231.1, et al).
- to help stabilize healthcare costs by providing affordable rates for medical professional liability coverage.
- to provide impartial and prompt compensation to affected injured parties of medical malpractice incidents.

To ensure healthcare costs are minimized for malpractice coverage, the PCF will thoroughly evaluate all claims to ensure fair and timely conclusions while maintaining affordable rates. This in turn facilitates a climate in which healthcare providers choose Louisiana as their location to practice, leading to the citizens of Louisiana having multiple options for their healthcare choices.

MISSION

The PCF was created by Act 817 of the 1975 Legislative Session to guarantee affordable medical professional liability coverage is available to all private healthcare providers and to provide a stable source of compensation to injured parties of malpractice.

It is the mission of the Patient's Compensation Fund Oversight Board (Board) to direct the operation and coordinate the defense of the Patient's Compensation Fund (PCF) in a manner that will timely and efficiently meet the needs of the interested parties for whom the PCF was created to serve: the citizens of the state, parties injured as a result of medical malpractice, and Louisiana's private healthcare providers.

PHILOSOPHY

The PCF staff will collect appropriate surcharges for each healthcare provider participating in the Fund and will process each claim fairly to ensure adequate compensation is provided to each legitimate injured party.

GOALS

1. The Board shall strive to maintain surcharge rates that are reasonable and affordable for healthcare providers but adequate to meet the statutorily mandated asset level relative to outstanding and projected liabilities.

2. The Board shall monitor annual claims payments by impartially and objectively resolving claims efficiently and timely.
3. The Board shall maintain adequate technology to provide prompt service to our clients.
4. The Board shall endeavor to be a more transparent, accountable and effective agency.

LINKS TO STATEWIDE INITIATIVES

- Children’s Budget link: N/A
- Human Resources Policies Beneficial to Women and Children link: N/A
- Other links (TANF, Tobacco Settlement, Workforce Development Commission, others)
N/A

DUPLICATION OF EFFORT

No other state agency or department performs these tasks or exercises these controls.

OBJECTIVES

1. **The Board shall, maintain the level of assets to liabilities as provided in R.S. 1231.1, with the goal of maintaining a level over the minimum required at all times.**

Beneficiary: Private health care providers, insurance companies and the injured parties will be the primary persons benefitting from this objective. With the assured financial stability for the PCF, there will be increased competition among insurance companies who are willing to write policies in Louisiana. Lower costs and a stable fund, provides health care providers with an attractive venue to practice in Louisiana, thus affording Louisiana's citizens options for their health care choices. Parties injured from medical malpractice will be assured compensation for their injuries as well as the care needed to ensure they are able to enjoy a satisfactory quality of life, based on their circumstances.

STRATEGY 1.1 – Continue to coordinate with an actuarial consultant to refine the PCF Rate Manual so classes of providers pay rates commensurate with the risk they pose.

STRATEGY 1.2 – Update and refine the experience rating program which charges the applicable surcharge for the risk associated with those enrolled healthcare providers who have a poor PCF claims history.

STRATEGY 1.3 – To aggressively resist and defend unmeritorious or exaggerated claims while at the same time ensuring resolution of legitimate claims promptly and fairly.

STRATEGY 1.4 – To ensure reserves are established accurately and timely and reevaluated regularly with adjustments made, as necessary.

PERFORMANCE INDICATORS:

Input: Annual number of enrolled health care providers, total amount of surcharges collected and total exposures calculated

Output: Total surcharges collected annually
Annual claims payments
Annual claims reserves
Number of enrolled healthcare providers
Fund balance

Outcome: Annual percentage increase / decrease in Surcharge rate and compliance with statutorily required asset level relative to liabilities

Efficiency: 80% of renewals processed within deadlines established in the PCF's policies
50% reduction in coverage gaps due to failure to receive notice of renewal

from the primary insurer

Quality: Number of delinquent renewals received which result in a gap in coverage should be reduced

Claims files reviewed at least annually at initial stage and semi-annually when litigation is involved

2. Through the Panel activities and claims processes, properly review claims for those with merit and thoroughly investigate meritorious claims, evaluating them for liability and damages.

Beneficiary: Injured parties will benefit from this objective by receiving compensation timely; the PCF and healthcare providers will benefit because when claims are concluded, time (interest) and money (legal fees) are saved for all parties involved.

STRATEGY 2.1 – Maintain statistical Medical Review Panel data and track statutorily-mandated timelines by electronic diary system to facilitate timely notices and closures.

STRATEGY 2.2 – Update the PCF Medical Review Panel procedural and instructional brochure supplied to individuals representing themselves and attorneys chosen as attorney-chairperson so they will know their duties as well as all statutory requirements relative to the Medical Review Panel process. Conduct meetings of all attorney chairmen to streamline process and provide consistency to handling of panel notices and practices.

STRATEGY 2.3 – Aggressively work to shorten the time frame by 10% from the time a Medical Review Panel opinion is rendered until the time the associated claim is closed.

STRATEGY 2.4 – Continually strive to build a closer working relationship with primary insurance carriers, defense attorneys and self-insured providers in order to know as early as possible whether a claim has the potential to impact the PCF's layer of coverage. Maintain an up-to-date website to publish information for these individuals.

STRATEGY 2.5 – Proactively pursue joint settlements with the primary carrier or self-insured so the PCF can negotiate while liability is still an issue.

STRATEGY 2.6 – Closely monitor and evaluate all payment requests on claims involving future medical payments to assure expenses are reasonable, necessary, and related. When indicated, utilize professional audits of medical bills. Continue to utilize the Department of Labor's Workers' Compensation "fee schedule" for these expenses.

STRATEGY 2.7 – Use defense counsel only on those claims the senior adjusters are unable to resolve.

STRATEGY 2.8 – Supervisors will periodically review pending claims status reports with each individual adjuster.

STRATEGY 2.9 – Unbiased claims counsel review of requests for settlement authority to ensure consistent case evaluations.

PERFORMANCE INDICATORS:

<u>Input:</u>	Annual number of claims opened Annual number of claims closed
<u>Output:</u>	Annual number of claims closed compared to opened
<u>Outcome:</u>	Percentage of claims closed within five years of filing date
<u>Efficiency:</u>	Maintaining at least 100% claims-closing persistency Annual number of claims evaluated and resolved within 5 years of the claim filing date Less than 20% of claims pending over ten years from date filed 100% of files with senior adjusters reviewed at least semi-annually
<u>Quality:</u>	Annual number of claims closed within 4 years when there is no indemnity payment made Decrease in pending claims over 10 years old Prevent inflated numbers of pending claims against healthcare providers

3. To promptly provide accurate information through courteous client assistance, imaging and accurate data input and to maintain an informative and current website to increase transparency and accountability of the agency.

Beneficiary: Claimants, healthcare providers and insurance carriers and their agents will all benefit from this objective as a highly-trained and well-equipped PCF staff will be able to quickly respond to their needs.

STRATEGY 3.1 – Ensure all new employees attend customer service training within 6 months of hire date and all supervisors attend their appropriate management courses. All new employees receive Ethics training within 1 year of hire and annually thereafter.

STRATEGY 3.2 – Ensure sufficient staff is available to process claims, panel requests and enrollment applications. Review workload for each section and establish benchmarks, if not already in place.

STRATEGY 3.3 – Maintain appropriate technology and infrastructure for all employees so that accurate information is available for decision-making and reporting.

STRATEGY 3.4 – Image all incoming panel and provider mail so information is readily available for inquiries and copies can be quickly provided to insurers, providers and attorneys. Image all claim payments to ensure permanency of the records and provide proof of payments when requested.

STRATEGY 3.5 – Image current paper provider files and closed claim files as time and staff permit. Move toward imaging all documents.

STRATEGY 3.6 – Increase transparency and accountability by maintaining up-to-date financial, claim and panel information on the PCF website, as well as current rate information, necessary forms, Board meeting minutes and important notices.

PERFORMANCE INDICATORS:

Input: Decrease in computer errors reported to I.T. staff in computer data system (PRISM)

Number of panel, claim and provider files imaged and/or pages imaged

Monthly posting of information and reports on the PCF website

Output: Number of open provider and closed claim files imaged

Monthly updates to the PCF website

Outcome: 100% of supervisory staff attends all required training within time allowed by Civil Service

100% of all current provider files imaged.

Efficiency: Information is recorded into the PCF's database within established deadlines and files are imaged so they are readily available to those who need them and copies can be provided, promptly.

Quality: Increase in information available to those the PCF serves and the public in general and decrease in response time for requests for information

Overall increase in client satisfaction and decrease in complaints

APPENDIX A

PRINCIPAL CLIENTS AND USERS:

The Patient's Compensation Fund was established for the benefit of these groups:

- private healthcare providers licensed and practicing in the State of Louisiana,
- parties injured as a result of medical malpractice committed by those health care providers, and
- ultimately, all citizens of Louisiana

The healthcare providers receive:

- medical malpractice coverage of \$400,000, in excess of \$100,000, plus related medical expenses, at affordable rates
- the protection of a limitation, or statutory "cap," on damages that can be awarded for claims of medical malpractice of \$500,000, plus related medical expenses
- entitlement to have all claims initially evaluated by a Medical Review Panel of three healthcare providers before civil litigation can be initiated
- competitive and affordable rates due to the financial stability of the Fund and the resulting motivation of malpractice insurance writers to issue policies in Louisiana

Those parties injured as a result of a medical malpractice incident receive:

- a certain and stable source of compensation that will pay up to \$400,000 in excess of the provider's primary source of \$100,000 plus all related medical expenses needed which includes the cost of custodial care, whether it is provided by a business, private individual or family member for the lifetime of the injured party

Citizens of Louisiana receive:

- access to better, more affordable healthcare as a result of available and affordable malpractice insurance which draws a larger pool of healthcare providers to Louisiana to practice, especially medical specialists

APPENDIX B

STATUTORY AUTHORITY:

Act 817 of the 1975 Louisiana Legislative Session created the Patient's Compensation Fund. The Act is comprised of La. R.S. 40:1231.1.

The Patient's Compensation Fund Oversight Board was established by an amendment to Act 817 during the 1990 Louisiana Legislative Session and is found at La. R.S. 40:1231.4 D(1).

The limitation on damages is found at La. R.S. 40:1231.2 B (1).

The language regarding payment of future medical benefits is found in La. R.S. 40:1231.3

The Medical Review Panel process is outlined in La. R.S. 40:1231.8.

The PCF Rules and Regulations are found in LAC Title 37-III-Chap. 1-19.

APPENDIX C

PROGRAM EVALUATION:

The strategic planning process began with a review of the existing plan by the PCF senior management comprised of the Medical Malpractice Compliance Director, the Claims Manager and the Administrative Director. An evaluation of where the PCF is now and where the PCF strives to be, was performed, objectives were developed, and an action plan comprised of various strategies to obtain these goals was laid out.

A preliminary plan was developed and presented to the Executive Director for review. Meetings were held with all supervisors to solicit input and to familiarize the supervisors with the steps they would be required to implement to achieve the goals included in the PCF's final strategic plan. Once input was obtained from PCF staff, the plan was presented to the PCF Oversight Board for additional input.

We at the PCF realize the two sets of clients most directly served by us – healthcare providers and parties injured as a result of medical malpractice – often have opposing opinions on how we should conduct our business. There is no easy solution to satisfying the needs of both sets of clients. The PCF cannot (and does not) set the needs of one group above the other; striking a balance between the two is the challenge the PCF faces daily.

BENCHMARKING:

It has been difficult to find a benchmarking partner against which to measure the PCF. Not all states have the equivalent of the Louisiana Patient's Compensation Fund, and there is wide diversity among the operations of the Patient's Compensation Funds that do exist. Some funds are mandatory, some include only specific types of providers, some are for specific types of injuries, some are administered by state entities, some are handled by third party administrators, some have separate caps on both economic and non-economic damages, and most do not include future medical expenses, although some do.

Regardless of this diversity, there have been various statistical studies done by diverse groups in relation to medical malpractice settlements and judgments and the medical malpractice insurance rates across the U.S. The PCF has determined that comparing our operations to these studies is the best avenue for benchmarking progress toward our goals.

One measure of success used by most insurance companies is considering their percentage of underwriting expense as compared to premiums. "Underwriting expense" represents the overhead of salaries and other costs associated with running a business. In a report distributed in November 2006, Willis Towers Watson reported that underwriting

expenses over the past ten years have ranged from 16% to 22% of net premiums. In the PCF's case, the administrative budget has represented from 2.5% to 4.0% of surcharge collections. The PCF is very efficient in accomplishing our mission.

Another measure of success can be made by considering the number of claims closed with a payout for damages as compared to the number of claims closed with no payout by the PCF. There are many reasons that claims are closed with no payout, including:

- abandonment by the plaintiff
- failure to comply with timeframes as established in the Medical Malpractice Act
- a finding that there was no breach in the standard of care by the healthcare provider by the peer review process, so the plaintiff did not pursue further action
- damages were below the \$100,000 threshold for payment by the PCF
- during discovery in the post-panel process, the case was found to be without merit and concluded without payment

According to a study compiled by the US Department of Justice, Bureau of Justice Statistics, from data submitted by seven states with comprehensive claims databases, the number of claims closed with a payout ranged from a low of 12% to a high of 38%. The PCF averaged payouts on 12% -- 18% of our claims.

The PCF is always mindful of its obligation to parties who have been injured as a result of a breach of the standard of care by a covered, qualified healthcare provider. Timeliness of compensation provided to the injured party is important to the PCF. However, since the PCF cannot participate in a suit until there is a judgment in excess of \$100,000 or until a settlement is reached or the PCF has been invited to participate, the PCF cannot always close claims as timely as desired. The PCF strives to obtain information on claims through cooperation with insurance companies, defendants and plaintiffs. Not only does this benefit the injured party, but expenses are lowered through less costly interest payments and litigation costs. According to the US Department of Justice, Bureau of Justice Statistics report, on average, claims are reported between 15 and 24 months after occurrence and resolved within 26 to 45 months after reporting. Louisiana's statute of limitations requires claims to be reported within 12 months of occurrence but no later than 36 months from occurrence. Once exposure to the PCF level of coverage is reported, the PCF resolves claims, on average, within 24 months. Our goal is to work with underlying insurers and their defense counsel together to timely and fairly compensate those who have been injured as a result of medical malpractice.

APPENDIX D

PERFORMANCE INDICATOR DOCUMENTATION

**Indicator Name / Number: Annual number of enrolled healthcare providers (GOAL I)
6095**

1. Indicator Type / Level: Input / K
2. Rationale: Denotes the number of healthcare providers – individuals, groups and institutions – that voluntarily pay the surcharges that comprise the monies held in the Patient’s Compensation Fund. Consequently, this number represents, at a minimum, the providers that are available to deliver healthcare to the citizens of Louisiana
3. Data Collection Procedure: Self-Insured providers or primary insurance carriers submit all applicable documentation directly to the PCF office. Such documents consist of applications, certificates of insurance, surcharge payments, self-insured security deposits, etc. Information regarding enrollment is entered into the PCF’s database and certificates of enrollment are issued to the healthcare provider.
4. Frequency and timing of:
 - Collection – documentation is submitted and collected daily
 - Reporting – semi-annually for actuarial review
5. Calculation Methodology: Any provider who pays an individual surcharge is counted as a single provider. Hospitals, clinics, nursing homes, surgical centers, dialysis centers, etc. are counted as single providers. Healthcare providers that are employees of such facilities, but are not required to pay individual surcharges, are not counted separately, but are included in the single-provider count of the facility. Physicians, Certified Registered Nurse Anesthetists, Physician’s Assistants, Surgical Assistants, Clinical Nurse Specialists, Nursing Practitioners, Nurse Midwives, Dentists and Oral Surgeons are required to pay individual surcharges, so each provider is counted individually. RNs, LPNs, lab technicians, radiology technicians, etc. are not required to pay individual surcharges if they are employees of enrolled healthcare providers, so they are not counted, unless they are enrolled individually.
6. Aggregations or Disaggregating: Total providers are also sub-categorized into:
 - Provider type (physician, hospital, dentist, nursing home, CRNA, All Other, etc.)
 - Physician class (physicians are rated according to 10 classes)
 - Physician specialty (physicians are further categorized as to specialty)
7. The PCF Surcharge section is responsible for data collection, accuracy and integrity. The Administrative Director and Executive Director are responsible for gathering and reporting data.

8. Limitations or weaknesses: Since participation in the PCF is voluntary, not all healthcare providers will be counted. The PCF does feel the majority of providers who are eligible do participate.
9. Management Usage: This information is used by the actuary to determine exposure, which is used in the calculation of surcharge rates. It is also used in the calculation of the statutorily required asset-to-liability level. Finally, management will use this information to determine staffing levels.

Indicator Name / Number: Total surcharges collected annually (GOAL I) / 6092

1. Indicator Type / Level: Output / K
2. Rationale: This indicator shows how much is paid into the PCF by enrolled healthcare providers annually
3. Data Collection Procedure: All payments are sent directly to the PCF Surcharge section and are posted to the PCF's database
4. Frequency and timing of:
 - Collection – payments are received and are posted daily
 - Reporting – monthly to the PCF Oversight Board, semi-annually to the actuary and as needed for management purposes
5. Calculation Methodology: How much a provider must pay is based upon current rates published annually in the PCF Rate Manual. Through upgrades to the PCF's in-house computer system, automation of the rate calculation will ensure that the provider is paying the correct surcharge before posting the payment to the database
6. Aggregations or Disaggregating: Total surcharge payments are sub-categorized by type of provider, physician class and physician specialty
7. The PCF Surcharge section is responsible for data collection, accuracy and integrity. The Administrative Director and Executive Director are responsible for gathering and reporting data.
8. Limitations or weaknesses: None
9. Management Usage: This information is used by the actuary in the calculation of surcharge rates. It is also used in the calculation of the statutorily required asset-to-liability level.

Indicator Name / Number: Annual claims payments (GOAL I) / 10401

1. Indicator Type / Level: Output / K
2. Rationale: Represents actual claims expenditures. This indicator shows actual loss experience. It also represents the other important factors analyzed by actuaries to determine recommended rates. Claims payments tracked for 5 or 10 years can help actuaries to develop trends which aid in determining reasonable and sufficient rates to meet the needs of future claims
3. Data Collection Procedure: All claims payments are processed by the PCF Claims section through the PCF's database
4. Frequency and timing of:
 - Collection –daily
 - Reporting – monthly to the PCF Oversight Board, semi-annually to the actuary and legislature and as needed for management purposes
5. Calculation Methodology: The amounts that are paid for indemnity (settlements or judgments) are based upon:
 - The nature and extent of the injury
 - The age of the claimant
 - The likelihood of a finding of liability
 - The jurisdiction
 - The capabilities of the plaintiff attorney
 - Cooperation from the primary insurer, which is a major yet uncontrollable factor
 - Judicial interest exposure
 - Medical expenses already incurred and expected to be incurred in the future

Expense payments are based upon actual incurred expenses. Future medical payments, if determined necessary by a court or by agreement between the parties, are paid as incurred or settled as a lump sum if desired by the plaintiff and economically sound for all parties.
6. Aggregations or Disaggregating: Payments are categorized as:
 - General Damages or Indemnity
 - Interest
 - Future medicals
 - Legal and Other Expenses
7. The PCF Claims section is responsible for data collection, accuracy and integrity. The Administrative Director and Executive Director are responsible for gathering and reporting data.

8. Limitations or weaknesses: Many of the factors related to settlement of cases are outside the control of the PCF. If the healthcare provider or his/her insurer chooses not to timely settle a case, the PCF is also “on hold.” This is a result of case law. When a judgment is reached in a case, the PCF is responsible for paying judicial interest, regardless of whether the PCF tried to actively pursue settlement of the claim or not and regardless of whether the healthcare provider paid policy limits or less. Once a healthcare provider settles a claim for policy limits (\$100,000), the PCF can no longer argue liability, only causation and damages, which limits the PCF’s defense actions. In addition, the PCF must always be cognizant of future medical expenses and legal costs.
9. Management Usage: This information is used by the actuary in the calculation of surcharge rates. It is also used in the calculation of the statutorily required asset level. Management uses this information for fiduciary responsibility and settlement strategy.

Indicator Name / Number: Annual claims reserves (GOAL I) / 10399

1. Indicator Type / Level: Output / K
2. Rationale: Represents the estimated liability exposure for a claim. A reserve is set by the Claims section based upon professional judgment of its value. The reserves are a very important aspect of what the actuaries consider when they analyze data and recommend proposed rate increases / decreases.
3. Data Collection Procedure: The Claims section establishes the reserves on claims based on available information, payments or judgments on similar cases and records this information into the PCF’s database.
4. Frequency and timing of:
 - Collection –daily
 - Reporting – monthly to the PCF Oversight Board, semi-annually to the actuary and as needed for management purposes
5. Calculation Methodology: There are a number of factors the Claims section takes into consideration when determining the appropriate reserves for a particular claim, such as:
 - The nature and extent of the injury
 - The age of the claimant
 - The likelihood of a finding of liability
 - The jurisdiction
 - The capabilities of the plaintiff attorney
 - Cooperation from the primary insurer, which is a major yet uncontrollable factor
 - Judicial interest exposure
 - Medical expenses already incurred and expected to be incurred in the future
6. Aggregations or Disaggregating: Total reserves are also categorized as follows:
 - General Damages reserves (settlements or judgments)

- Future Medicals reserves (if applicable)
- Litigation reserves (legal and other expenses)

Additionally, reserves are sub-categorized by provider type and physician class and specialty

7. The PCF Claims section is responsible for data collection, accuracy and integrity. The Administrative Director and Executive Director are responsible for gathering and reporting data.
8. Limitations or weaknesses: A reserve is an estimated, educated guess of the value of a claim based largely on past court cases and settlements; it is not an exact science. At settlement or judgment time a determination is made as to whether the claimant will continue to incur medical expenses related to the malpractice.
9. Management Usage: This information is used by the actuary in the calculation of surcharge rates. It is also used in the calculation of the statutorily required asset level. Management uses this information for fiduciary responsibility and settlement strategy.

Indicator Name / Number: Annual number of claims evaluated (GOAL II) / 10400

1. Indicator Type / Level: Efficiency / S
2. Rationale: Provides a measure of productivity and workload for the Claims section. As the adjusters obtain facts about a claim, they are reviewed and evaluated so the claim may be brought to closure. Settlement authority must be granted by supervisors, the Claims Manager, the Executive Director and the PCF Board. This information shows the progress of claims through the settlement process. The quicker cases are evaluated by an adjuster, the faster injured parties are compensated.
3. Data Collection Procedure: When a case is assigned to a senior adjuster, an evaluation is performed. As additional information is obtained, additional evaluations are done. When settlement authority is requested, the claims council meets to discuss the case. These events are documented and recorded in the PCF's database.
4. Frequency and timing of:
 - Collection – daily
 - Reporting – monthly for management purposes
5. Calculation Methodology: Each case that is assigned to a senior adjuster and each claim council meeting will be counted
6. Aggregations or Disaggregating: None

7. The PCF Claims section is responsible for data collection, accuracy and integrity. The Administrative Director and Executive Director are responsible for gathering and reporting data.
8. Limitations or weaknesses: The PCF must actively pursue obtaining information on claims as plaintiffs and their attorneys are not diligent about keeping the PCF informed. Also, since the PCF is not a party to the suit until after there is a judgment in excess of \$100,000 or a settlement is reached or the PCF is invited to participate, information is not always readily available on the status of a case.
9. Management Usage: Management uses this information to monitor productivity and workload.

Indicator Name / Number: Number of updates to information on the PCFOB website (GOAL III) / NEW

1. Indicator Type / Level: Output / S
2. Rationale: The need for the individuals and groups the agency serves to have current information relative to the operations, rules, regulations, statutory provisions and expenditures of the PCFOB has been recognized by the PCF Board and staff. Having information current and readily available is essential as the website is a tool used by others. It is important that the website content be up-to-date and accurate, providing the level of information needed.
3. Data Collection Procedure: All updates to the website will be recorded by the I.T. section staff
4. Frequency and timing of:
 - Collection –daily
 - Reporting – quarterly or as needed
5. Calculation Methodology: The PCF will record the number of changes / updates made to the website
6. Aggregations or Disaggregating: None
7. The PCF I.T. section is responsible for data collection, accuracy and integrity. The Administrative Director and Executive Director are responsible for gathering and reporting data.
8. Limitations or weaknesses: None
9. Management Usage: Management uses this information to monitor compliance